IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Criminal Application No.6569 of 2014

Shivajirao s/o Eknathrao Paul. .. **Applicant.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. Rajendrraa Deshmukkh, Advocate, for applicant.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for respondent.

With

Criminal Application No.6816 of 2014

Pradhan S/o. Devidas Adhe. .. **Applicant.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. Sudarshan J. Salunke, Advocate, for applicant.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 19th JANUARY 2015

ORDER:

1) Both the applications are filed for bail. Both the sides are heard. The applications are filed in Crime No.I-187/2014 registered in Jawahar Nagar Police Station (Economic Wing), Aurangabad. The crime is registered on the basis of report given by Smt. Nanda Patil, resident of Aurangabad. After investigation, charge sheet is filed for offences punishable under sections 420, 406, 465, 467, 468, 471, 120(B) etc. of Indian Penal Code, sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999, sections 4,5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act 1978 and also under section 66(D) of Information Technology Act.

2) It is the case of the prosecution that accused No.1 Shri. Deepak Parkhe and his wife Divya Parkhe registered one company by name "Super Power Investment Services Indian Ltd." on 26-7-2011 and most of the Directors (except one) were members of their family. Shri. Deepak was shown as "C.M.D." on the record.

Accused No.3-Shivaji Paul (applicant from Criminal Application No.6569/2014) and accused No.6-Pradhan Adhe (applicant from Criminal Application No.6816/2014) had joined the company even prior to its registration. These applicants were made core committee members of this company by Parkhe family.

3) It is the case of the prosecution that false promises were given to the investors/depositors that within short time they can get double the amount invested. Different schemes were floated and wide publicity was given to the schemes. Even seminars were arranged in many cities. Chain system for investment was created to promote the schemes and for collecting more investors. Awards were also promised like of car, flats and even one crore rupees. Agents were also promised with handsome commission. The schemes were put on website of the company. Shri. Parkhe had opened accounts in State Bank of India at Nashik and Aurangabad. Allegations are made that he got printed vouchers of the company which were similar to the cheques of this bank and this was done to deceive the

investors.

4) During period from 2011 to March 2014 more than 3200 members were made. Allegations are made that amount of more than Rs.54 crores was collected. It is the case of the prosecution that more than 354 similar complaints were received. Modus operandi is described like giving of cheques of incentives, interests in advance with aforesaid vouchers of the company. To convince the investors false representations were made and it was shown that this Company was doing business under different names and following companies were created :

(1) Super Vision Infrastructure Pvt. Ltd.
(2) Superpower Developers and Construction.
(3) Indian Broking Ltd.
(4) Super power vision agro infra ltd.
(5) Angle Broking ltd. and
(6) D.C.B. Multilevel marketing Pvt. Ltd.

Promise was given that after the prescribed period amount invested would also be returned.

5) The first informant, Smt. Nanda approached the Company in October, 2013 after reading the

advertisement. When she made inquiry, Smt. Parkhe was present and she personally gave information about the schemes. Smt. Nanda was not convinced initially as she thought that the schemes were not feasible. Then the applicants intervened and they tried to convince Smt. Nanda. They represented that for initial investment of Rs. 3 lakh Smt. Nanda will get Rs.20,000/- per month under the scheme. The family members of Nanda like her father learnt about the schemes and they together met Deepak Parkhe and accused Pradhan on 26-10-2013 and also 30-10-2013. Allegations are made that the applicants visited the residential place of Smt. Nanda to convince her.

6) In view of the aforesaid representation, Smt. Nanda invested amount of Rs. 3 lakh and her relatives also invested amount which was more than Rs.20.85 lakh. Promises were given to them that for investment of Rs.2.95 lakh each investor would get amount of around Rs.26,250/- per month as interest for the period of 24 months and after 24 months the invested money would also be returned. Cheques of such interest which were to be given to the investors were given in advance.

7) Smt. Nanda and her relatives did not get anything. No reliable information was given after making enquiry. Smt. Nanda then gave report to police on 25-7-2014. Along with the report she produced the advance cheques given to her. She also made available the cheques by which she had made payment. Similar statements of her relatives were recorded.

8) During investigation statement of the land lord of the premises where the company had opened the office was recorded. It shows that in April 2014 possession of the premises was returned to the landlord by Shri. Parkhe and the account of rent of the landlord was settled. Thus Company was virtually closed.

9) Against the applicant Shivaji Paul there is allegation that he was working for the company as agent. He induced the investors and he got amount of Rs. 23 lakh from this company as his commission. It is alleged that this amount was received for the year 2013-14 and the record of previous year was not available with the company though Shivaji Paul had joined the company in the year 2011. The record produced shows that income

tax of R.73,000/- was deducted at source by the company for the payment made to him during the year 2013-14. There is record that Shivaji Paul had worked as Chairman of so called core committee of the company. Photographs were displayed on pamphlets that he was given a car by the company to appreciate his work. He was given Rs. 15 lakh on one occasion for purchasing a flat as commission for his work.

10) The submissions made show that title documents in respect of property made by Shivaji Paul from aforesaid money are seized. Plot Nos.91 to 98 from Gat No.4 situated village Kandi, Tahsil Sailu, District Parbhani were purchased by this accused under sale deed dated 23-11-2012. On 15-12-2012 Shivaji purchased one plot from Zone No.4 of Kandi with others. Similarly, he purchased 1H 57 R land under sale deed dated 29-8-2013 at Nipani Takali. The investigating officer has filed affidavit to the effect that he has taken steps after seizure for attachment of the property under the provisions of the Maharashtra Protection of Interest of Depositors Act, 1999. During arguments learned counsels for the

applicants made statement that the applicants undertake not to make any transaction in respect of the properties which are seized during investigation without permission of the Court. In any case copy of this order can also be sent to the Revenue and other authorities to ensure that such transactions are not made as the property is seized as stolen property in the aforesaid crime. Registrar (Judicial) to do the needful in that regard.

11) Learned counsel appearing for Shivaji Paul submitted that Shivaji himself is deceived and he had invested amount in this company. This submission is not at all acceptable at least at this stage in view of the aforesaid record available against Shivaji Paul.

12) Against the applicant from second proceeding there are similar allegations. It was submitted that amount of around Rs.15 lakh came to him from the aforesaid company as his commission. Record like sale deed of landed property from Sailu, motor cycle and four wheeler are shown to be seized from him as stolen property. Affidavit is filed by the investigating officer in respect of this applicant also to show that steps are taken

for attachment of this property under the Maharashtra Protection of Interest of Depositors Act, 1999. There are particulars of the amount received like amount Rs.7.13 lakh received as commission and the remaining amount was received as prize, for purchasing car, gold jewelers and computer.

13) Record of investigation shows that Shri. Deepak Parkhe and his wife had collected money from depositors. Accounts were opened by Parkhe family. The papers and allegations show that most of the amount collected from the depositors was not invested and not deposited in the account of the company by Parkhe and they kept the amount with themselves as top-up money and by using this *modus operandi* most of the money received from the investors was misappropriated. Only one Madhubala Patil was apparently outsider. She was shown as Director of the company but all other Directors were the members of Parkhe family. There is record to show that they have made huge property by using this money for themselves. The statements and the record show that similar complaints are received and complaints

are pouring in and they are under investigation. Many more persons are deceived and it is not certain as to how much more amount was collected under the scheme by this company.

14) Learned counsels for the applicants submitted that they are behind the bars for more than three months. It was submitted that at present there are allegations against the applicants in the present matter only of Smt. Nanda and her relatives and they are of aforesaid nature. They submit that it is not certain as to how much time will be taken for completion of the case filed against the applicants. It was submitted that the applicants are permanent residents of the places mentioned in the charge sheet and there is no possibility that they will flee. Learned counsel for the applicants submitted that bail can be granted in these circumstances to both the applicants.

15) Though it is possible that many cases may be filed against the applicants in future, it can be said that there is only one charge-sheet at present and the material from the charge-sheet is discussed by this Court. In view

of the aforesaid circumstances, this Court holds that subject to some conditions bail can be granted to both the applicants.

16) In the result, both the applications are allowed subject to following conditions :-

(I) Applicant - Shivaji Eknathrao Paul is to be released on bail in Crime No.I-187/2014 registered at Jawahar Nagar Police Station, Aurangabad for offences punishable under sections 420, 465, 467, 468, 471, 107, 109, 114, 120(B), 34 etc. of the Indian Penal Code, sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999 on his furnishing PR and SB of Rs. two lakh (rupees two lakh) with one or more solvent sureties of such amount. He is to deposit amount of Rs. four lakh (rupees four lakh) in the crime and this amount is to be taken as stolen property. He is to be released only after depositing such amount.

(II) Applicant Pradhan Adhe is to be released on bail in the aforesaid crime on his furnishing PR and SB of Rs. one lakh (rupees one lakh) with one or more solvent sureties of the like amount. He is to deposit Rs. 2 lakh (rupees two lakh) in the crime and this amount is to be taken as stolen property in the crime. This applicant is to be released only after he deposits this amount.

(III) Both the applicants are not to tamper with prosecution witnesses. They are not to commit similar offences. They are not to leave Maharashtra State without permission of the concerned Sessions Court. They are to surrender their Passport, if any, before the police before their release on bail.

(IV) Registrar (Judicial) to send a copy of this order to concerned Collector so that entry of seizure is taken on record and transaction of sale or transfer of other nature is not registered in the office of Sub Registrar.

Sd/-
(T.V. NALAWADE, J.)

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